

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MILTON SMITH #A81091,)
)
)
Plaintiff,)
)
)
v.) No. 11 C 6912
)
)
DIRECTOR S. A. GODINEZ,)
)
)
Defendant.)

MEMORANDUM ORDER

This Court's October 5, 2011 memorandum opinion and order ("Opinion") explained in detail the reasons for its dismissal of the pro se 28 U.S.C. §2254 ("Section 2254") Petition for Writ of Habeas Corpus ("Petition") by which Milton Smith ("Smith") challenged his 1983 conviction on two murder charges on which he is currently serving a 60-year custodial sentence. After Smith filed a November 7 Notice of Appeal together with his Request for Certificate of Appealability ("COA"), this Court issued a brief November 9 statement ("Statement") that (1) held no COA should issue as to Smith's appeal and (2) advised Smith of his right to tender that same issue to our Court of Appeals for its consideration.

Now Smith has submitted a self-prepared document captioned Reconsideration of Statement as to Certificate of Appealability. But before this Court turns to that subject, it is constrained to note that Smith has disregarded entirely another matter addressed in this Court's Statement. According to the docket, Smith has

neither paid the required \$455 in appellate filing fees nor filed a properly supported in forma pauperis application. Accordingly, as promised in the Statement, this Court "report[s] that delinquency to the Court of Appeals so it may determine the appropriate course of action."

To turn to Smith's current filing, it speaks only of a subject that might bear on the timeliness or untimeliness of his habeas petition. But this Court's October 5, 2011 memorandum opinion and order that concluded by dismissing Smith's Petition has made it clear that the Petition was fatally flawed on substantive grounds wholly independent of any timeliness issue.

Accordingly there is no merit in Smith's request for reconsideration. It is denied, and this Court's Statement as to Certificate of Appealability stands--this Court repeats its earlier holding that no COA should issue as to Smith's current appeal.



Milton I. Shadur
Senior United States District Judge

Date: January 3, 2012